IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13462 of 2004

Between:

G.V.R. Nageswara Rao, S/o. G.V. Suryanarayana Murthy,
Behind Masque, Kakinada-1.

..... PETITIONER

AND

1 Dy. Tahsildar, Enforcement, Kakinada Urban, Office of the District Supply Officer, Collectorate Buldgs, Kakinada.
2 Civil Supplies, Dy. Tahsildar, Kakinada Urban, M.R.O., Office, Kakinada.
3 Joint Collector (Civil Supplies), Kakinada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus, or any other appropriate Writ, Order or Direction, declaring the action of the respondents 1 and 2 in seizing the articles from the petitioner price Shop No.31 of kakinada town and sealing the Shop as illegal and arbitrary and for a consequential direction directing the respondents to remove the seals.

Counsel for the Petitioner : MR.M.LAKSHMANA SARMA

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.13462 OF 2004

ORAL ORDER :

The petitioner is an authorized dealer of a fair price shop. According to the petitioner, the authroisation issued in his favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorization is subsisting, the respondents failed to supply the essential commodities for distribution to the cardholders. Hence, this writ petition challenging the alleged action of the respondents in not supplying the essential commodities for distribution to the cardholders.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or cancelling the authorization.

This issue has been considered by a Full Bench of this Court in OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under :

"The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities."

In the light of the ratio laid down by the Full Bench in the above decision, the Writ Petition is disposed of with a direction to the respondents to supply the essential commodities to the petitioner in case the petitioner is holding a valid authorization and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

Writ Petition is accordingly disposed of. No costs.

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16th September, 2004.

Gbs

To

1 Dy. Tahsildar, Enforcement, Kakinada Urban, Office of the District Supply Officer, Collectorate Buldgs, Kakinada.

2 Dy. Tahsildar, Civil Supplies, Kakinada Urban, M.R.O., Office, Kakinada.
3 Joint Collector (Civil Supplies), Kakinada.

4.2CCs to G.P. for Civil Supplies, High Court of A.P. Bldgs, Hyderabad. (OUT).

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